

Serial No. 10/632,546, Filed 5/19/04

REMARKS

Claims 1-15 are pending in the application. Claims 1 and 9 are in independent form.

Claims 1-8 were rejected under §112, paragraph 2. Applicant has incorporated the Examiner's suggestions to overcome the rejection. Applicant has additionally incorporated amendments for claims 11, 13 and 14. In the last sentence of page 2 of the March 20, 2006 Office Action, Applicant is unclear regarding the Examiner's rejection of claim 4 *and* 6.

Claims 1, 2, 4-9 and 11-15 were rejected under §103 over the deGoncourt in view of Pees. deGoncourt lacks the claimed air springs and valve related limitations. The Examiner relies upon Pees to provide these features. The Examiner argues that the motivation to modify deGoncourt with the elements of Pees would be "to provide optimize vehicle body isolation and damping of both the body and wheel axle at their natural frequencies." This motivation is improper and not supported by the teachings of the references.

The base reference, deGoncourt teaches a conventional hydraulic shock absorber. In order for the Examiner to provide a motivation in support of a *prima facie* case of obviousness, the Examiner must provide some sort of teaching that would suggest to one of ordinary skill in the art that a conventional hydraulic shock absorber should be replaced with an air spring based upon the teachings of the references as a whole. The Examiner cannot provide such a motivation. Specifically, Pees teaches an air spring damper that is improved relative to prior art air spring dampers. That is, the benefits described in Pees are a result of structural improvements and features that were not present in prior art air spring dampers. For example, Pees in column 1 references frequency sensing damping, and elastomeric air sleeve and an orifice restrictor. The

Serial No. 10/632,546, Filed 5/19/04 incorporation of these features in the Pees air spring damper provide optimized vehicle body isolation and damping at natural frequencies relative to prior air spring dampers. That is, no comparison is made in Pees between its invention and conventional hydraulic shock absorbers. Accordingly, the motivation recited by the Examiner cannot be relied upon given the teachings of Pees. The rejection is improper and must be withdrawn.

Claims 1-4, 8-11 and 15 were rejected over §103 over Young in view of Merkle. Young lacks the laterally spaced apart air springs recited in the claims. The Examiner relies upon Merkle to provide this feature, and argues the motivation to modify Young would be "to provide a simpler construction, improve force transmission, reliable and inexpensive to manufacture spring support." The motivation argued by the Examiner is improper for reasons similar to those discussed above relative to Pees. That is, the Merkle air spring is an improvement over prior art air springs such as the one described in German Patent No. 1021733 referenced in the Merkle Background. Statements in Merkle relating to the simpler construction, improved force transmission, etc. in no way relate to conventional hydraulic dampers. Accordingly, it is improper for the Examiner to conclude that one of ordinary skill would be motivated to replace the hydraulic damper of Young with the air spring dampers taught in Merkle. The rejection is improper and must be withdrawn.

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It is believed that this application is in condition for allowance. If any fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Respectfully submitted,

CARLSON, GASKEY & OLDS



William S. Gottschalk
Registration No. 44,130
400 W. Maple, Suite 350
Birmingham, MI 48009
(248) 988-8360

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